

**AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF SEVENTY-SEVEN THOUSAND DOLLARS AND 00/100 (\$79,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS AND TOTAL RESIDUAL CHLORINE OPERATIONAL STANDARDS AT THE NORTH AVENUE CSO ON JULY 29, 2006, AUGUST 8, 2006, AUGUST 15, 2006, AND SEPTEMBER 5, 2006; THE TANYARD CREEK CSO ON AUGUST 15, 2006 AND SEPTEMBER 13, 2006; THE CLEAR CREEK CSO ON AUGUST 20, 2006 AND AUGUST 28, 2006; CUSTER AVENUE ON AUGUST 22, 2006 AND SEPTEMBER 13, 2006; AND THE INTRENCHMENT CREEK ON SEPTEMBER 15, 2006 AND SEPTEMBER 18, 2006 PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has experienced a violation of Fecal Coliform Operational Standards as set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT Paragraphs XI.D.2 and Paragraphs XI.D.4; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation of CSO Fecal Coliform Operational Standards did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01 529017 Q30001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA;** that the Chief Financial Officer of the City is authorized to issue payments for stipulated penalties imposed by the Environmental Protection Agency (EPA) and the Environmental Protection Division (EPD) of the Department of Natural Resources of the State of Georgia in the amounts of Thirty-Eight Thousand Five Hundred Dollars and 00/100 (\$39,500.00) payable to the **State of Georgia** and Thirty-Eight Thousand Five Hundred Dollars and 00/100 (\$39,500.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

**AND FINALLY BE IT RESOLVED,** that the said payments be charged to and paid from Fund, Account and Center Number 2J01(Water & Wastewater Revenue) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment & Collection).

## Exhibit A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, Section XI.D.2 as follows:

### Section XI.D.2. Fecal Coliform May-October

| <b>Date</b> | <b>Facility</b>        | <b>Colonies/100 ml</b> | <b>Penalty</b> | <b>Comment</b> |
|-------------|------------------------|------------------------|----------------|----------------|
| 7/29/06     | North Avenue CSO*      | 3,200                  | \$2,000        |                |
| 8/8/06      | North Avenue CSO*      | 30,000                 | \$5,000        |                |
| 8/15/06     | North Avenue CSO*      | 490,000                | \$8,500        |                |
| 8/15/06     | Tanyard Creek CSO*     | 2,300                  | \$2,000        |                |
| 8/20/06     | Clear Creek CSO*       | 21,000                 | \$5,000        |                |
| 8/22/06     | Custer Avenue CSO      | 4,100                  | \$2,000        |                |
| 8/28/06     | Clear Creek CSO*       | 2,400                  | \$2,000        |                |
| 9/5/06      | North Avenue CSO*      | 14,545                 | \$5,000        |                |
| 9/13/06     | Tanyard CSO*           | 58,000                 | \$8,500        |                |
| 9/13/06     | Custer Avenue CSO      | 3,200                  | \$5,000        |                |
| 9/15/06     | Intrenchment Creek CSO | 230,000                | \$8,500        |                |
| 9/18/06     | Custer Avenue CSO      | 172,727                | \$8,500        |                |

The City is subject to stipulated penalties for violations of the CSO Consent Decree, Section XI.D.4 as follows:

### Section XI.D.4. Violation of Total Residual Chlorine Operational Standards

| <b>Date</b> | <b>Facility</b>  | <b>TRC Exceedance</b> | <b>Penalty</b> | <b>Comment</b> |
|-------------|------------------|-----------------------|----------------|----------------|
| 8/28/06     | Clear Creek CSO  | 0.28 mg/l             | \$8,500        |                |
| 9/13/06     | North Avenue CSO | 4.5 mg/l              | \$8,500        |                |

\* Penalty status may be affected by fecal sampling point relocation request.

**A RESOLUTION BY COUNCILMEMBER CEASAR C. MITCHELL**

**06-R-1936**

**AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF TWENTY FOUR THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$24,500.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS AT THE NORTH AVENUE CSO ON JULY 29, 2006, AUGUST 8, 2006 AND AUGUST 15, 2006; TANYARD CREEK CSO ON AUGUST 15, 2006; CLEAR CREEK CSO ON AUGUST 20, 2006 AND CUSTER AVENUE CSO ON AUGUST 22, 2006; PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has experienced a violation of Fecal Coliform Operational Standards as set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT Paragraphs XI.D.2; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation of CSO Fecal Coliform Operational Standards did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01 529017 Q30001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,** that the Chief Financial Officer of the City is authorized to issue payments for stipulated penalties imposed by the Environmental Protection Agency (EPA) and the Environmental Protection Division (EPD) of the Department of Natural Resources of the State of Georgia in the amount of Two Thousand Dollars and No Cents (\$2,000.00) for the violation of CSO Fecal Coliform operational standards at the North Avenue CSO on July 29, 2006; in the amount of Five Thousand Dollars and No Cents (\$5,000.00) for the violation of CSO Fecal Coliform operational standards at the North Avenue CSO on August 8, 2006; in the amount of Eight Thousand Five Hundred Dollars and No Cents (\$8,500.00) for the violation of CSO Fecal Coliform operational standards at North Avenue CSO on August 15, 2006; in the amount of Two Thousand Dollars and No Cents (\$2,000.00) for the violation of CSO Fecal Coliform operational standards at the Tanyard Creek CSO on August 15, 2006; in the amount of Five Thousand Dollars and No Cents (\$5,000.00) for the violation of CSO Fecal Coliform operational standards at the Clear Creek CSO on August 20, 2006; and in the amount of Two Thousand Dollars and No Cents (\$2,000.00) for the violation of CSO Fecal Coliform operational standards at the Custer Avenue CSO on August 22, 2006.

**BE IT FURTHER RESOLVED,** that the Chief Financial Officer is authorized to issue checks in the amounts of Twelve Thousand Two Hundred Fifty Dollars and No Cents (\$12,250.00) payable to the State of Georgia and Twelve Thousand Two Hundred Fifty Dollars and No Cents (\$12,250.00) payable to the Treasurer, United States of America as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

**AND FINALLY BE IT RESOLVED,** that the said payments be charged to and paid from Fund, Account and Center Number 2J01(Water & Wastewater Revenue) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment & Collection).

**Exhibit A**

| <b>Date</b> | <b>Facility</b>   | <b>Colonies/100 ml</b> | <b>Penalty</b> | <b>Comment</b> |
|-------------|-------------------|------------------------|----------------|----------------|
| 7/29/06     | North Avenue CSO  | 3,200                  | \$2,000        |                |
| 8/8/06      | North Avenue CSO  | 30,000                 | \$5,000        |                |
| 8/15/06     | North Avenue CSO  | 490,000                | \$8,500        |                |
| 8/15/06     | Tanyard Creek CSO | 2,300                  | \$2,000        |                |
| 8/20/06     | Clear Creek CSO   | 21,000                 | \$5,000        |                |
| 8/22/06     | Custer Avenue CSO | 4,100                  | \$2,000        |                |

A RESOLUTION BY

COUNCILMEMBER CEASAR C. MITCHELL

06-~~R~~-1936

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF \$ \_\_\_\_\_ AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS \_\_\_\_\_ PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City has experience a violation to the CSO Consent Decree set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q31001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD).

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**Section 1:** That the Chief Financial Officer of the City of Atlanta is authorized to issue checks payable in the amount of \$ \_\_\_\_\_ to the **State of Georgia** and in the amount of \$ \_\_\_\_\_ to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental

Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

**Section 2:** That said payments shall be charged to and paid from Fund, Account and Center Number 2J01 529017 Q30001.

**Section 3:** That all resolutions and parts of resolutions in conflict herewith be and are hereby waived in this instance only.



## EXHIBIT A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, per Section \_\_\_\_\_ as follows:

### CSO Consent Decree Section

| Date | Facility | Colonies/100 ml | Penalty | Comment |
|------|----------|-----------------|---------|---------|
|------|----------|-----------------|---------|---------|